

Bulletin of

Board News and Enforcement Actions



Fall 1999, no. 26

CALIFORNIA BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

MY COMPUTER DOES IT FOR ME . . . AND OTHER MILLENNIUM MYTHS

Board President George Shambeck, P. L. S.

1999-2000 Board president, George Shambeck, P. L. S., has been the Board's land surveyor member since 1995. Mr. Shambeck studied land surveying at the University of California at Los Angeles, followed that with four years in the title industry, then performed surveying with the Orange County Flood Control District for six years. He started work for the civil engineering and land surveying firm of Hall and Foreman, Inc., in Santa Ana, 36 years ago, and was president of the firm until his retirement in October, 1999. George holds California land surveyor license 3419, issued in 1967.



When I assumed the presidency of the Board on July 1, there was a lot on the Board's plate. It's still there, but as a longtime member of the clean-plate club, I'd like to promise I'll clean everything off by June of 2000. I'd *like* to, but that won't happen — millennium myth number one. Instead, I'll bring you up-to-date on the Board's activities and plans.

One of the issues that faces us this year is the "millennium bug." The Board has diagnosed and remediated Y2K concerns. Our databases were analyzed and tested and all have been pronounced compliant. Tests of the telephone systems, heating and air conditioning systems for the office, and other pieces of equipment necessary for the Board to continue its mission, indicate

Y2K compliance has been achieved. That's an issue I don't expect to be around when I complete my term.

Elsewhere in this newsletter you'll find articles about the Board's upcoming sunset review hearing (that's still with us), the current review of Board Policy Resolutions, the retired status for licensees that was recently signed into law by the governor, changes to the laws governing the practice of engineering and land surveying that take effect in January, and an article reminding professionals about their duty to warn.

As a professional land surveyor, I'm particularly concerned by the low passage rate of candidates for land surveyor licenses in California, so I'm going to address that issue here. Land surveyors are licensed by California's Department of Consumer Affairs to protect property and the public welfare. Successful candidates must demonstrate, through the California examination, that they have the technical, organizational, operational, and communications skills necessary to organize

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HOW TO CONTACT BOARD STAFF

Mailing Address

California Board for Professional
Engineers and Land Surveyors
Post Office Box 349002
Sacramento, CA 95834-9002
Street: 2535 Capitol Oaks Drive, # 300
Sacramento, California 95833-2944

Fax Number

(916) 263-2246

Internet Address

<http://www.dca.ca.gov/pels>
(general information, Board laws and
rules, Consumer Guide, exam
information and applications, the
complaint form, and other Board
forms)

General Information

(916) 263-2222

License Verification

(916) 263-2222 or
www.dca.ca.gov/pels/

Executive Staff

Cindi Christenson, P. E.
Executive Officer
(916) 263-2230

Patricia E. Canterbury
Assistant Executive Officer
(916) 263-2230

Kevin A. Schunke
Special Assistant to the E.O.
(916) 263-2020

Staff Engineers

Susan Christ, P. E. (Civil)
(916) 263-2247

Eileen Crawford, P. E. (Civil)
(916) 263-5438

Ignacio Lopez-Alvarez, P. E.
(Mechanical)
(916) 263-2248

Staff Land Surveyor

Howard W. Brunner, P. L. S.
(916) 263-2271

Examinations/Licensing

Susan Christ, P. E.
Exam Development
(916) 263-2247

Eileen Crawford, P. E.
Licensing
(916) 263-5438

Ignacio Lopez-Alvarez, P. E.
Exam Administration
(916) 263-2248

Legislation

Joanne Arnold
Program Manager
(916) 263-2283

Kevin Schunke
(916) 263-2020

Enforcement

Joanne Arnold
Program Manager
(916) 263-2283

Nancy Eissler
Enforcement Analyst
Attorney General Case Information
(916) 263-2241

Sally Strubinger
Lead Enforcement Analyst
(916) 263-2251

Cady Davis
Enforcement Analyst
(916) 263-2253

Margie Freeman
Enforcement Analyst
(916) 263-2249

Donna Vaum
Enforcement Analyst
(916) 263-2250

Mariann Fagunes
Complaint Information/Enforcement
Outreach Coordinator
(916) 263-2233

Nancy Cook
Organization Record Information
(916) 263-0937

1999/2000 Sunset Hearings

Along with several other Department of Consumer Affairs (DCA) boards, this board is scheduled for hearings before the Joint Legislative Sunset Review Committee. Three days have been set for the DCA boards being reviewed this year. The hearing began November 30, 1999.

Legislation signed by Governor Davis on October 10, 1999, authorized the Board to continue through the year 2000. By law, the legislature must review the operations of various state agencies periodically and, in the case of DCA boards, decide whether the licensing and regulating functions should continue to be administered by a board, or whether the administration of the Professional Engineers Act and the Professional Land Surveyors Act should be carried out by a bureau of the Department of Consumer Affairs. In either event, licensing of professional engineers and professional land surveyors will continue. The difference would be the absence of appointed board members.

The hearings will consider the report the Board originally prepared for 1998 hearings which were postponed by the legislature, along with a 1999 supplement to that information. Both documents are available on the website under the heading "Publications."

For more information on the hearing date, you may view the Senate Daily File on the Legislative Council Bureau's website: www.leginfo.ca.gov/dayfile.html ♦

Jim Reynolds, P. E. 1931 - 1999

The Board was saddened by the late May death of James Curtis Reynolds, P. E. Mr. Reynolds received a degree in Civil Engineering from San Jose State University in 1959, and completed the Masters program there in 1982. Mr. Reynolds was licensed by the Board on March 16, 1965. In 1969, he founded the geotechnical engineering firm of James C. Reynolds & Associates in Watsonville, where he remained as principal engineer until his death. He was an active member of the American Public Works Association, the Society of Military Engineers, American Society of Civil Engineers, and Consulting Engineers and Land Surveyors of California. He served this Board as a member of both the Geotechnical and the Civil Engineering Technical Advisory Committees. Board member Ted Fairfield graduated from SJSU with Mr. Reynolds. He said, "Jim served as the geotechnical engineer on many projects in which I was involved, and I always enjoyed his ability to reduce challenges and issues into their fundamental elements. Jim and the word 'integrity' were synonymous."

SCHEDULE OF COMMITTEE AND BOARD MEETINGS

December 16 & 17, 1999

Board Office

*2535 Capitol Oaks Dr., #300
Sacramento, CA 95833*

February 24 & 25, 2000

*Sheraton Newport Beach
4545 MacArthur Blvd
Newport Beach, CA*

April 6 & 7, 2000

Location to be Announced

June 1 & 2, 2000

Location to be Announced

**Agendas are posted on the
Board website ten days
before each meeting.**

NOTE: *Sites are dependent upon
approval from the Department of
Consumer Affairs. For more
information, contact Jacqueline
Barclay at (916) 263-1436.*

My Computer Does It For Me, continued from page 1 . . .

and communicate survey information. Why are so few candidates passing the land surveyor examination?

Modern technology has had a big impact on the level of understanding of the theories of land surveying. The Board repeatedly is told, "Real surveyors don't do that. My computer does it for me." But how do we write an exam which tests and licenses the computer, or tests the computer skills of the candidate? And even if that were possible, how do those computer skills protect the public? An untrained person with sophisticated software can produce a beautiful survey map, but that doesn't mean he or she can judge whether the map is technically sound. And does that untrained person realize when the results aren't reasonable?

It isn't easy for a candidate to get the kind of broad-based experience necessary to pass the examination. Many firms cannot, or will not, move their licensure-candidates in and out of the office, or into different kinds of positions so they can get the necessary breadth of experience. Based on what the Board has seen, the California Department of Transportation (CalTrans) seems to be giving their surveyors the best opportunity for a wide exposure to surveying.

The thriving economy has also had a negative impact on the pass rate of the examination, and has had for the past few years. Educators offering survey instruction tell us that enrollment rates in degree programs, classes, and

seminars fall off as employment increases. The amount of time students spend studying also decreases.

The kind of education candidates get also impacts examination results. California candidates who have taken the National Council of Examiners for Engineers and Surveyors (NCEES) Fundamentals of Land Surveying Examination (FLS), known in California as the Land Surveyor-in-Training exam (LSIT), do not fare as well as the national candidate population. The national pass rate for the last ten FLS examinations has averaged 52.4%. The California pass rate has been 34.3% (see chart 1).

Up to this point, this exam has been based on practical field experience. In October 1999, the exam became academically-centered, with academics tested at the college level. Based on past experience, it is expected that California candidates will have even lower scores on the new exam.

A common complaint staff hears as candidates are leaving the exam sites is, "I didn't have enough time." While the Board has never had a complaint about time from a passing candidate, Board members, exam staff,

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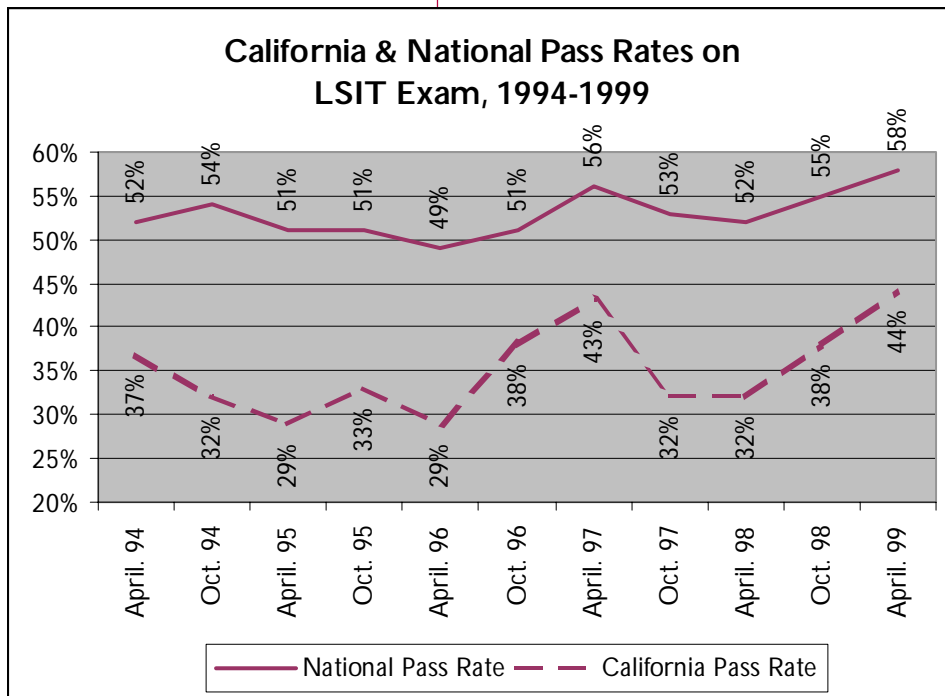
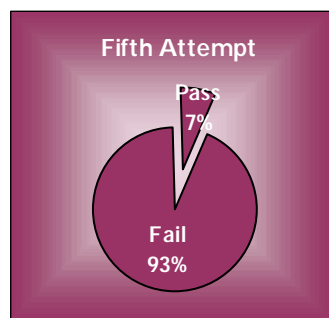
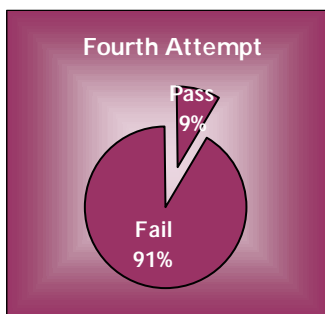
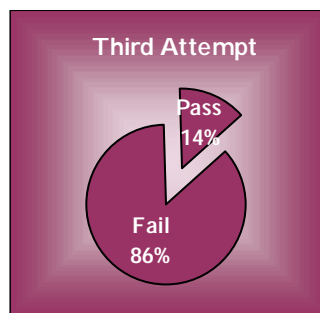
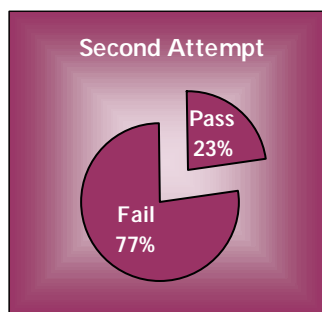
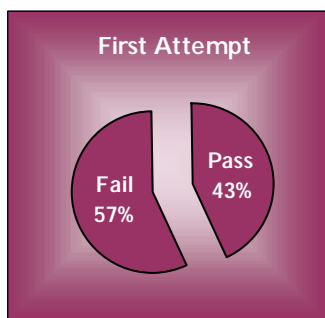


Chart 1

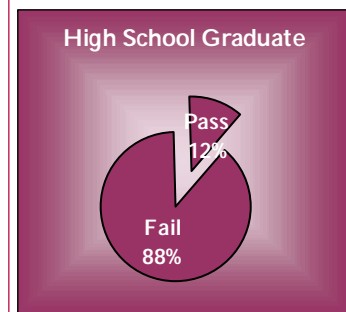
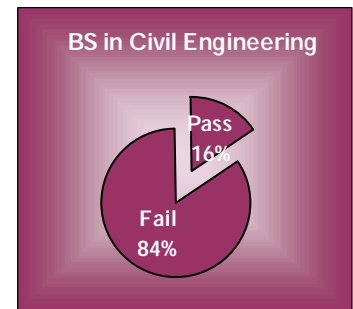
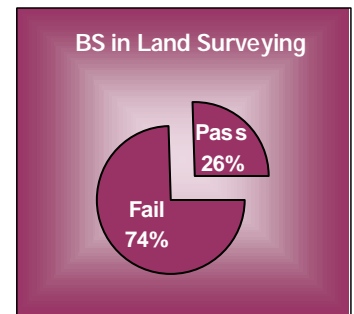
and exam consultants are genuinely concerned about providing adequate time for the examination and are working to assure that future examinees have sufficient time to complete the test.

Finally, the Board is questioning whether professional land surveyors are too generous in recommending candidates, preferring to allow the examination to weed out unqualified candidates. Many references, particularly in large organizations, do not appear to know the candidate's abilities. They don't want to look like a "bad guy," but they don't help candidates assess their skills and readiness for the examination. The Board wants to emphasize to the profession that serving as a reference is a responsibility and that the land surveying profession suffers if they don't provide valid and useful information about a candidate.

The surveying industry appears to be in a state of decline. It's possible that the K-12 education system does an inadequate job of preparing students; that sufficient higher education opportunities aren't available; and clearly, there are few opportunities for on-the-job training. If so, it would appear that the necessary breadth and depth of knowledge required to build a healthy population of licensed land surveyors will come only with formal education and better opportunities to gain experience in the field. The computer can't do it for us. ♦



Pass Rates by Number of Attempts



Pass Rates by Education

About the Charts

The Board studied some of the characteristics of candidates who took the Land Surveyor examination from 1994 through 1998. An average of 12.2 % of those having only a high-school education passed the examination during this period, compared with 26% of those with a B.S. Degree in Land Surveying (above).

The Board also looked at the correlation between number of exam attempts and passage rates, as shown in the charts to the left. Not shown on the chart is the fact that of the candidates who took the examination six times or more, only 24 passed, 17 of them in 1997.

EXAMINATION SCHEDULE 2000 - 2003

New on the Board Website:

- The application package for PEs was added to the Board website in October.
- Past Board meeting minutes and future meeting agendas are posted on the website.

Coming Soon:

- Technical Advisory Committee meeting agendas

Other sites of interest:

www.leginfo.ca.gov

- California law
- Legislative publications (daily files, hearing schedules, etc.)
- Assembly and Senate Bill information
- Information on the California Legislature and its members
- Links to other California and federal legislative websites

Exam Schedule Notes

The Board reserves the right to amend this schedule without advance notice. Civil applicants applying for comity (reciprocity) in California must comply with the final filing dates, as they are required by law to take and pass special exams on seismic principles and engineering surveying. The Board does not allow extensions of the final filing dates pending notification of previous test results on EIT/LSIT exams.

Engineer-in-Training (EIT/FE) and Land Surveyor-in-Training (LSIT/FLS)

Examination Date		Final Postmark Date for Filing	
April 15, 2000	(Saturday)	February 18, 2000	(Friday)
October 28, 2000	(Saturday)	September 1, 2000	(Friday)
April 21, 2001	(Saturday)	February 16, 2001	(Friday)
October 27, 2001	(Saturday)	September 7, 2001	(Friday)
April 20, 2002	(Saturday)	February 15, 2002	(Friday)
October 26, 2002	(Saturday)	September 6, 2002	(Friday)
April 12, 2003	(Saturday)	February 14, 2003	(Friday)
October 25, 2003	(Saturday)	September 5, 2003	(Friday)

Special Civil/Seismic Principles and Engineering Surveying

April 15, 2000	(Saturday)	January 7, 2000	(Friday)
October 28, 2000	(Saturday)	July 21, 2000	(Friday)
April 21, 2001	(Saturday)	January 5, 2001	(Friday)
October 27, 2001	(Saturday)	July 20, 2001	(Friday)
April 20, 2002	(Saturday)	January 4, 2002	(Friday)
October 26, 2002	(Saturday)	July 19, 2002	(Friday)
April 12, 2003	(Saturday)	January 3, 2003	(Friday)
October 25, 2003	(Saturday)	July 25, 2003	(Friday)

Chemical, Civil, Electrical, and Mechanical

April 14, 2000	(Friday)	January 7, 2000	(Friday)
October 27, 2000	(Friday)	July 21, 2000	(Friday)
April 20, 2001	(Friday)	January 5, 2001	(Friday)
October 26, 2001	(Friday)	July 20, 2001	(Friday)
April 19, 2002	(Friday)	January 4, 2002	(Friday)
October 25, 2002	(Friday)	July 19, 2002	(Friday)
April 11, 2003	(Friday)	January 3, 2003	(Friday)
October 24, 2003	(Friday)	July 25, 2003	(Friday)

Agricultural, Control System, Fire Protection, Geotechnical, Industrial, Manufacturing, Metallurgical, Nuclear, Petroleum, and Traffic

October 27, 2000	(Friday)	July 21, 2000	(Friday)
October 26, 2001	(Friday)	July 20, 2001	(Friday)
October 25, 2002	(Friday)	July 19, 2002	(Friday)
October 24, 2003	(Friday)	July 25, 2003	(Friday)

Land Surveying

April 14, 2000	(Friday)	January 7, 2000	(Friday)
April 20, 2001	(Friday)	January 5, 2001	(Friday)
April 19, 2002	(Friday)	January 4, 2002	(Friday)
April 11, 2003	(Friday)	January 3, 2003	(Friday)

Structural

October 27 & 28, 2000	(Fri/Sat)	July 21, 2000	(Friday)
October 26 & 27, 2001	(Fri/Sat)	July 20, 2001	(Friday)
October 25 & 26, 2002	(Fri/Sat)	July 19, 2002	(Friday)
October 24 & 25, 2003	(Fri/Sat)	July 25, 2003	(Friday)

APRIL 1999 EXAMINATION STATISTICS

Discipline		# Tested	# Passed	% Passing	Cutscore
E-I-T		2540	1269	50%	70 of 100
L-S-I-T		167	74	44.3%	106 of 170
Chemical		45	24	53.3%	48 of 80
Electrical		199	29	14.6%	48 of 80
Mechanical		242	106	43.8%	48 of 80
Civil	Princ & Prac	1443	608	42.1%	48 of 80
	Seismic	1460	523	35.8%	155 of 282
	Survey	1525	608	39.9%	164 of 300
Land Surveying		583	84	14.4%	625 of 996
Total Number of Exams Administered:				8,204	

Notice: Board to Survey Geotechnical Engineers

The Board will be conducting an occupational analysis for geotechnical engineers in Spring 2000. Surveys will be sent to geotechnical engineers to assess their work-related activities. The information will be used to update the test plan for the geotechnical engineering exam. The geotechnical examination is one of six California-specific examinations developed by Board staff and our vendor with the cooperation and assistance of California-licensed engineers and land surveyors.

“It is very important that the geotechnical engineers who receive the occupational analysis survey complete it and return it promptly, so data that is representative of geotechnical practice in California can be collected and the test plan brought up-to-date,” said Board staff psychometrician, Julie Campbell-Warnock. ♦

Mission Statement

The mission of the Board for Professional Engineers and Land Surveyors is to safeguard the life, health, property, and public welfare by regulating the practice of professional engineering and professional land surveying.

We:

Qualify and license individuals

Establish regulations

Enforce laws and regulations

Provide information so that the public can make informed decisions.

Vision Statement

The Board assures that:

Qualified applicants are licensed as quickly as possible.

Licensees maintain continuing competency.

Disputes are resolved for consumers and licensees promptly and impartially.

Adequate information is available to all through a high-profile, comprehensive information program.

Violations of the law are discouraged before they happen and are investigated and adjudicated promptly when committed.

It is managed strategically and its budget is performance-based.

Legislative changes are approached proactively.

Its performance is measured against defined standards and it periodically evaluates its programs and policies in light of emerging trends, practices, and technologies.

The professional engineering and professional land surveying laws and regulations are clear, relevant, unambiguous, and functional.

It will attract highly competent staff who contribute to the integral success of the Board and will maintain a work environment where employees are satisfied and produce because they feel valued and challenged.

Speakers Available

Members and staff of the Board are available to speak to your professional association, staff meeting, or college class upon request. Face-to-face communication with current and future licensees is an important part of the Board's role. Meetings provide the opportunity for two-way communication, allowing the Board to hear comments and concerns from the engineering and land surveying professions. Please contact the Board office if you would like a representative to attend a future meeting, and let us know if there is a specific topic you would like addressed.

Board Policy Resolutions

In early 1995, the Board decided to publicize, as Board Policy Resolutions, its opinions and policies in order to provide answers to commonly asked questions about existing statutes, regulations, and procedures. Before issuing any policy resolutions, the Board asked its attorneys to check whether or not the Board could do so without adopting the opinions as formal and binding regulations. Based on records of Court decisions on similar opinions and policies of state agencies, the Board's attorneys gave the opinion that statements of policy did not need to be adopted as formal and binding regulations as long as they (1) are not intended to amend, supplement, or revise any express statute or regulation concerning professionals subject to licensure by the Board; (2) are merely restatements of existing law and are intended only for clarification; (3) are not intended to implement, interpret, or make specific the law enforced or administered by the Board; and (4) are not intended to govern the Board's procedures.

The Board did not intend for the policy resolutions to be treated as "new laws" or to be viewed as binding opinions. They were simply to be restatements of existing laws or the only legally tenable statement of law. Unfortunately, members of the professions, consumers, and governmental agencies did not accept them as such and began to treat the policy resolutions as binding laws which would be enforced by the Board. When the Board realized this was happening, it directed its attorneys to again look into the issue of policy resolutions and whether they needed to be adopted as regulations.

The Board's attorney recently advised that a 1996 California Supreme Court ruling has narrowed the instances in which an agency may issue opinions or procedures without adopting them as regulations. Based on this new ruling, the Board's attorney advised that all existing policy resolutions be reviewed to determine which should be adopted as formal and binding regulations, which are no longer necessary, and which still meet the newly narrowed instances in which a regulation is not required. The Board directed staff and its attorneys to begin this review and provide recommendations to the Board. The recommendations were made at its September 1999 meeting, when the Board voted to withdraw nine policy resolutions, in addition to two previously withdrawn.

These policy resolutions were withdrawn because the topics addressed are no longer at issue, have already been addressed in regulation or statute, or need to be adopted as a regulation. The remaining eleven are still being reviewed by the Board's attorneys for discussion at the December Board meeting.

If you are interested in more detailed information, reports of the discussions are available in the Board meeting minutes. Minutes are posted on the website after they've been approved at the next regular Board meeting. ♦

Duty to Warn

Do you have a responsibility to report an unsafe condition on a job site? In 1985, the California Attorney General's Office concluded in 68 Ops. Cal. Atty. Gen. 250 (1985) that:

"A registered engineer retained to investigate the integrity of a building who determines, based on structural deficiencies in violation of applicable building standards, that there is an imminent risk of serious injury to the occupants thereof, and who is advised by the owner that no disclosure or remedial action is intended and that such determinations are to remain confidential, has a duty to warn the identifiable occupants, or if not feasible, to notify the local building officials or other appropriate authority of such determinations."

The opinion found that the duty to warn was based on civil tort liability, primarily in the case of Tarasoff v. The Regents of the University of California (1976) 17 Cal. 3d 425. In that case, the California Supreme Court held that a psychotherapist was liable for wrongful death where he had failed to warn a target of his patient's intention to commit murder. The Attorney General's opinion stated that "[n]either the psychotherapist nor the registered engineer in the situation here considered created the peril. Nevertheless, a duty to warn those endangered by the conduct of another arises where the actor stands in some special relationship to the dangerous person or to his foreseeable victim." Thus, the Attorney General's Office found a special relationship to exist between the engineer and the owner/client, requiring the engineer to warn of foreseeable peril. ♦

Retired Status Approved for Engineers and Land Surveyors

In 1999 the Board proposed legislation creating a retired status. The bill was signed by the governor on October 10, 1999 and the language becomes law on January 1, 2000. At its November and December meetings, the Board will decide how renewals and/or applications for the new status will be processed.

The conditions for a retired status are printed below. Licensees should read them carefully before deciding whether or not to apply for the new status. It is important for you to note that once a license is converted to a retired status, you will **no longer be able to perform, or offer to perform, any engineering or surveying services.** You also **will not be able to offer any consulting services, nor offer any professional decisions while acting as an expert witness in court.** The only way to convert a license from a retired status back to an active status is to take the professional examination again.

The retired status is for licensees who are no longer active in their profession, and therefore don't want to pay the \$160 license renewal fees. We anticipate that the lifetime fee for a retired status will be less than \$100. This retired status will allow the licensee to continue receiving all regular mailings from the Board, and to legally use the titles "retired professional engineer," "professional engineer, retired," or either of those titles with the branch designation inserted for the word "professional" (for example, "retired civil engineer" or "civil engineer, retired,") or the titles "retired professional land surveyor" or "professional land surveyor, retired."

The following conditions must be met to qualify for the retired status:

- a) licensed by the California Board as a PE or PLS for a minimum of five (5) years,
- b) licensed within the United States or territories as a PE or PLS for a minimum of 20 years, and
- c) hold a California license that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline.

We anticipate full implementation of this program by Summer 2000. Further information will be included in the Board's next newsletter, and information will also be posted on the Board's website as it becomes available. ♦

ENFORCEMENT ACTIVITIES

CITATIONS

Citations are an alternative way to enforce the laws prohibiting unlicensed practice of engineering or land surveying. Citations are also issued to licensed engineers and land surveyors when the severity of a violation may not warrant suspension or revocation of a professional's right to practice. When a fine is levied with a citation, payment of the fine represents satisfactory resolution of the matter. [Business & Professions Code section 125.9(d)] Certified copies of citation decisions are available from the Board's Enforcement Unit for ten cents per page plus a two dollar certification fee. Noncertified copies are free. Please include the subject's name and the citation number in your request. All requests must be made in writing.

AKBARI, MASHAL
Unlicensed
Citation 98-0804-U
Final: August 23, 1999
Action: \$1,000 fine
Citation 98-0805-U
Final: August 23, 1999
Action: \$500 fine

Investigation of a complaint revealed that Mashal Akbari of Hayward, California, who is not licensed by the Board as a professional engineer, provided civil engineering services for a project in Pleasanton in violation of Business and Professions Code sections 6787 (a), (d), (f), (g), (h), and (j). He used the stamp and signature of a licensed civil engineer on a letter and on a set of plans and seismic retrofit calculations for the project and submitted those documents with plan check changes to the City of Pleasanton on March 15, 1996.

In a letter dated October 10, 1995, Akbari represented himself as a registered engineer and offered to practice civil engineering. The letter also showed that he was managing a business from which civil engineering was solicited, performed, and practiced. Akbari used the restricted title "Structural Engineer" in the letter and represented his business, Global Engineering, as a business that could lawfully offer civil engineering.

Citation 98-0804-U ordered Akbari to pay an administrative fine in the amount of \$1000.

Akbari was also issued a second citation for violation of Business and Professions Code section 6787 (d).

Investigation revealed that Mashal Akbari used the engineering stamp and signature of a licensed civil engineer on a Board-prescribed reference form dated June 4, 1996, which Akbari submitted with his application for license as a civil engineer.

Citation 98-0805-U imposed a \$500 administrative fine.



ARATA, LOUIS A.
Civil Engineer C 11413
Citation 5026-L
Final: April 12, 1999
Action: Order of Abatement
Citation 5027-L
Final: April 12, 1999
Action: Order of Abatement

Investigation revealed that Louis A. Arata of Millbrae, California, violated the Professional Land Surveyors Act by failing to file a Record of Survey for a property in Burlingame and by not tagging monuments he set on that survey.

The Board ordered Arata to cease and desist from violating Business and Professions Code sections 8762 (a), (b), (c), and 8772 by tagging the appropriate monuments and filing the required Record of Survey with the County of San Mateo. The maps have been filed and compliance obtained on citation 5026-L.

Investigation also revealed that Arata failed to file a Record of Survey or to tag monuments he set on a survey of property in Millbrae. Citation 5027-L

ordered Arata to cease and desist from violating Business and Professions Code sections 8762 (a), (b), (c), and 8772 by tagging the appropriate monuments and filing the required Record of Survey with the County of San Mateo. The maps have been filed and compliance obtained.



Investigation of a complaint against Walter T. Baird of La Mesa, California, showed that he violated the Professional Land Surveyors Act, Business and Professions Code §§ 8762 (d), (e), 8763 and 8767, by failing to file a map after setting monuments located in San Diego County and failing to submit the survey in the form required by the law. Additionally, Baird failed to resubmit his survey with the changes requested by the County Surveyor's Office and/or a note concerning agreed changes that could not be agreed upon within 60 days.

Citation 5030-L ordered Baird to cease and desist from the violations noted above by filing the required Record of Survey with the County of San Diego. Compliance has been obtained.



Investigation revealed that Wallace Mark Beron of Alpine, California, violated the Professional Land Surveyors Act by failing to file a Record of Survey with the San Diego County Surveyor's office as required by Business and Professions Code sections 8762 (d) and (e). Citation 5028-L ordered Beron to file the required maps.

A separate citation, 5029-L, was issued for a similar failure to file a Record of Survey, also ordering Beron to file the required maps with the County of San Diego.

**BAIRD, WALTER
THEODORE**
Civil Engineer C 31429
Citation 5030-L
Final: September 30, 1999
Action: Order of Abatement

BERON, WALLACE MARK
Civil Engineer C 27697
Citation 5028-L
Final: July 23, 1999
Action: Order of Abatement
Citation 5029-L
Final: July 23, 1999
Action: Order of Abatement



Disciplinary Terminology

Final or Effective Date: *The date the disciplinary action takes effect.*

Probation : *The licensee may continue to practice under specific terms and conditions.*

Revocation, or revoked: *The license is cancelled and the right to practice is ended.*

Stayed: *The revocation or suspension is delayed.*

Suspension: *The licensee is prohibited from practicing for a specific period of time.*

Voluntary Surrender/Surrender of License: *The licensee turns in the license to the Board. The right to practice is ended.*

**BROWN, CLIFFORD
RAYMOND**
Civil Engineer C 22836
Accusation 607-A
Effective August 23, 1999:
Revoked, revocation stayed.
90-day actual suspension
(September 22, 1999
through December 21,
1999). Five years on
probation. Cannot practice
soils engineering during
probation.

CHIN, MARK TERRENCE
Civil Engineer C 30300
Structural Engineer S 2515
Accusation 649-A
Effective October 18, 1999:
Both licenses revoked,
revocations stayed. 30-day
actual suspensions
(October 18, 1999 through
November 17, 1999). Four
years on probation.

Disciplinary Actions

Administrative disciplinary actions are taken by the Board against licensees who are in violation of the Professional Engineers Act and/or the Professional Land Surveyors Act. Certified copies of these Board decisions may be obtained from the Board's Enforcement Unit at a charge of ten cents per page plus a two dollar certification fee. Noncertified copies are available at no charge. Please include the subject's name and the accusation number in your request. All requests must be made in writing.

At a settlement conference resulting in a stipulated agreement, Clifford Raymond Brown of Quincy, California, admitted that he has subjected his civil engineering license to discipline for negligence in four separate instances including (1) calculations for remodeling a motel in Quincy; (2) calculations supporting construction plans for an aircraft hangar at the Plumas County Airport; (3) structural calculations for the foundation of a double-wide manufactured home in Portola; and (4) recommendations for a roadway in Quincy for cut and fill slopes that violate the Uniform Building Code and for failure to determine soil/rock material properties and develop recommendations for materials use, placement, and compaction.

Brown agreed to the terms of the Board's Decision and Order. His license was revoked but the revocation was stayed and he is on probation for five years, on terms and conditions including actual suspension of his license for ninety days. He is required to notify clients and employers of the Stipulation and the Decision and Order in the case and provide each of them with a copy of the documents, and obtain signed written acknowledgments of receipt, before entering into contracts for engineering services. During the first three years of probation, Brown may only practice engineering under the supervision of a licensed civil engineer, approved of in advance by the Board. His practice of land surveying does not require supervision.



In a stipulated settlement, Mark Terrence Chin of Fresno, California, admitted that he was negligent in the practice of professional engineering on a re-roof plan for a residence in Sanger, California. Specifically, some elements specified on the drawing Chin stamped were inadequate for the intended purpose. The ceiling joists above the family room were overstressed, the rafters above the south side of the family room were also overstressed, and the double 2x14 beam over the kitchen and family room was approximately 10% overstressed. The drawing stamped by Chin presented information which did not agree with the existing conditions. Specified purlins and struts could not be installed in accordance with the prevailing Building Code. The drawing failed to indicate that an existing ceiling strongback would have to be cut to install the new double 2x14 beam, and it failed to indicate how the double 2x14's were attached to each other or to specify how they were supported or braced against rotation at their supports.

Chin stipulated to the Board's Decision and Order that his licenses each be revoked, the revocations stayed, and each license placed on probation for four years upon certain terms and conditions, including concurrent 30-day suspensions beginning October 18, 1999. Among the other terms is the

requirement that Chin successfully complete and pass a college-level course specifically related to the area of the violation and a course in professional ethics, and that he complete and pass the California Laws and Board Rules examination.



In December of 1995, Edwin Terry Holbert's land surveyor license L 5448 was revoked for violations of Business and Professions Code section 8780(a) for incompetence, negligence, fraud, and deceit in the practice of land surveying and Business and Professions Code sections 8780(c) and 8732 for failing to file a Record of Survey within the time required by law, and for violating the conditions of probation in a previous action.

On June 4, 1999, the Board heard Edwin Terry Holbert's petition for reinstatement of his license. The Board concluded he has been sufficiently rehabilitated and it would not be against the public interest to reinstate his license on a probationary basis, subject to terms and conditions including, among others, that he provide the Board with the names and addresses of all persons or entities with whom he has a contractual or employment relationship involving the practice of professional land surveying and evidence that he has served all such persons and entities with a copy of the Board's decision; and pay the previously-ordered costs of \$5,207.25 to the Board.



The Board has issued a Default Decision in the Matter of Accusation 680-A against Walid A. Hneiti, electrical engineer license E 15048.

The Board found that in late 1997, Hneiti was convicted of a felony for violation of section 424 of the Penal Code (embezzlement by a public officer) by the Superior Court in Los Angeles County. In September 1997, while employed as an electrical engineer by the California Department of Transportation, Hneiti illegally received, kept, transferred, and distributed public money, and used part of the money for himself and another person.

Based on the findings, the Board determined that Hneiti violated Business and Professions Code section 6775(a). The Default Decision ordered the revocation of his license as an electrical engineer, effective August 23, 1999.



HOLBERT, EDWIN TERRY
Petition for Reinstatement
of Revoked License
Effective December 18,
1995: License revoked
Effective July 19, 1999:
License reinstated, three
years on probation

HNEITI, WALID A
Electrical Engineer E 15048
Accusation 680-A
Effective August 23, 1999:
Revoked.

New Legislation Effective January 1, 2000

Section 6787 of the Business and Professions Code is **amended** to read:

6787. Every person is guilty of a misdemeanor and for each offense of which he or she is convicted is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed three months, or by both that fine and imprisonment:

- (a) Who, unless he or she is exempt from registration under this chapter, practices or offers to practice civil, electrical, or mechanical engineering in this state according to the provisions of this chapter without legal authorization.
- (b) Who presents or attempts to file as his or her own the certificate of registration of another.
- (c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.
- (d) Who impersonates or uses the seal of ~~any other practitioner~~ a licensed professional engineer.
- (e) Who uses an expired or revoked certificate of registration.
- (f) Who shall represent himself or herself as, or use the title of, registered civil, electrical, or mechanical engineer, or any other title whereby such person could be considered as practicing or offering to practice civil, electrical, or mechanical engineering in any of its branches, unless he or she is correspondingly qualified by registration as a civil, electrical, or mechanical engineer under this chapter.
- (g) Who, unless appropriately registered, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical, or mechanical engineering work is solicited, performed, or practiced.
- (h) Who uses the title, or any combination of ~~such~~ that title, of "professional engineer," "licensed engineer," "registered engineer," or the branch titles specified in Section 6732, or the authority titles specified in Section 6763, or "engineer-in-training," or who makes use of any abbreviation of ~~such~~ that title which might lead to the belief that he or she is a registered engineer, without being registered as required by this chapter.
- (i) Who uses the title "consulting engineer" without being registered as required by this chapter or without being authorized to use that title pursuant to legislation enacted at the 1963, 1965 or 1968 Regular Session.
- (j) Who violates any provision of this chapter.

(Chap. 983, Statutes of 1999. Effective January 1, 2000)

Section 8780 of the Business and Professions Code is **amended** to read:

8780. By a majority vote, the board may suspend for a period not to exceed two years, or revoke the license or certificate of any licensed land surveyor or registered civil engineer, respectively, licensed under this chapter or registered under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, whom it finds to be guilty of:

- (a) Any fraud, deceit, misrepresentation, negligence, or incompetency in his or her practice of land surveying.
- (b) Any fraud or deceit in obtaining his or her license.
- (c) Any violation of any provision of this chapter or of any other law relating to or involving the practice of land surveying.
- (d) Any conviction of a crime substantially related to the qualifications, functions and duties of a land surveyor. The record of the conviction shall be conclusive evidence thereof.
- (e) Aiding or abetting any person in the violation of any provision of this chapter.
- (f) A breach of contract in connection with the practice of land surveying.

(Chap. 983, Statutes of 1999. Effective January 1, 2000)

Section 8792 of the Business and Professions Code is **amended** to read:

8792. Every person is guilty of a misdemeanor:

- (a) Who, unless he is exempt from licensing under this chapter, practices, or offers to practice, land surveying in this state without legal authorization.
- (b) Who presents as his own, the license of another.
- (c) Who attempts to file as his own any record of survey under the license of another.
- (d) Who gives false evidence of any kind to the board, or to any member, in obtaining a license.
- (e) Who ~~falsely~~ impersonates or uses the seal of ~~another practitioner, of like or different name~~ a professional land surveyor.
- (f) Who uses an expired or revoked license.
- (g) Who violates any provision of this chapter.

(Chap. 983, Statutes of 1999. Effective January 1, 2000)

Section 8761 of the Business and Professions Code is **amended** to read:

8761. Use of signature and seal

Any licensed land surveyor or registered civil engineer may practice land surveying and prepare maps, plats, reports, descriptions, or other documentary evidence in connection therewith. All maps, plats, reports, descriptions, or other documents issued by the licensed land surveyor or registered civil engineer shall be signed by the surveyor or engineer to indicate the surveyor's or engineer's responsibility for them. In addition to the signature, the map, plat, report, description, or other document shall bear the seal or stamp of the licensee or registrant and the expiration date of the license or registration. If the map, plat, report, description, or other document has multiple pages or sheets, the signature, seal or stamp, and expiration date of the license or registration need only appear on the originals of the map or plat and on the title sheet of the report, description, or other document.

~~Every map, or plat, report, description, or other document issued by a licensed land surveyor or registered civil engineer shall comply with the provisions set forth in Section 8764, whenever the map, plat, report, description, or other document is filed as a public record show the bearing and length of lines, scale of map and north arrow, the name and legal designation of the property depicted, and the date or time period of the preparation of the map or plat.~~

It is unlawful for any person to sign, stamp, seal, or approve any map, plat, report, description, or other document unless the person is authorized to practice land surveying.

(Chap. 608, Statutes of 1999. Effective January 1, 2000)

Section **8765** of the Business and Professions Code is **amended** to read:

8765. Record of survey - exemptions

A record of survey is not required of any survey:

- (a) When it has been made by a public officer in his or her official capacity and a reproducible copy thereof, showing all data required by Section 8764, except the recorder's statement, has been filed with the county surveyor of the county in which the land is located. Any map so filed shall be indexed

and kept available for public inspection.

(b) Made by the United States Bureau of Land Management.

(c) When a map is in preparation for recording or shall have been recorded under the provisions of the Subdivision Map Act.

(d) When the survey is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and sufficient monumentation is found to establish the precise location of property corners thereon, provided that a corner record is filed for any property corners which are set or reset or found to be of a different character than indicated by prior records. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(e) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

(Chap. 608, Statutes of 1999. Effective January 1, 2000)

Section 8773.1 of the Business and Professions Code is amended to read:

8773.1. Corner record form

The board shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which such the corner record shall be submitted and filed, and the time limits within which the form shall be filed. A corner record shall be a single 8.5 by 11 inch sheet which may consist of a front and back page.

(Chap. 608, Statutes of 1999. Effective January 1, 2000)

Section 8773.4 of the Business and Professions Code is amended to read:

8773.4. Corner record; filing; conditions; exemptions

(a) No corner record shall be filed unless the same is signed by a licensed land surveyor or registered civil engineer and stamped with his seal, or in the case of an agency of the United States government or the State of California the certificate may be signed by the chief of the survey party making the survey, setting forth his or her official title.

(b) No corner record need to be filed when:

(1) A corner record is on file and the corner is found as described in the existing corner record.

(2) All conditions of Section 8773 are complied with by proper notations on a record or survey map filed in compliance with the Land Surveyor's Act or a parcel or subdivision map, in compliance with the Subdivision Map Act.

(3) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

This section shall not apply to maps filed prior to the effective date of this section.

(Chap. 608, Statutes of 1999. Effective January 1, 2000)

[The original effective date of this section was January 1, 1974.] ♦

Board Publications

Many of the publications listed immediately below are available on the Board's website and all are available from the Board office upon receipt of payment or, if there is no charge, upon request. For the publications with a price listed, please make check payable to **Department of Consumer Affairs**.

<input type="checkbox"/> Professional Engineer Plain Language Pamphlet (free on website)	\$5.00
<input type="checkbox"/> Professional Land Surveyor Plain Language Pamphlet (free on website)	\$5.00
<input type="checkbox"/> 1996 Sunset Review Report	\$35.00
<input type="checkbox"/> 1998 Sunset Review Report with 1999 Supplement (free on website)	\$5.00
<input type="checkbox"/> Consumer Guide to Engineering and Land Surveying (available on website)	No charge
<input type="checkbox"/> Bulletin for Spring 1998 (# 23), Fall 1998 (# 24), and Spring 1999 (# 25)	No charge

INFORMATION ON BOARD LICENSEES

Current information on Board licensees, including links to disciplinary actions, is available on the Internet at www.dca.ca.gov/pels. Most public libraries provide Internet access to the public for a small fee.

The Department of Consumer Affairs' Public Sales department will prepare, for a fee, electronic files of licensee information. For information on costs, including costs to prepare customized data configurations, call (916) 323-7018.

The 1998 Professional Engineers and Professional Land Surveyors Roster includes licensee information *as of March 31, 1998*. It may be ordered by writing to: **Department of General Services Publications Section, P. O. Box 1015, North Highlands, CA 95660**. Include order # 7540-957-1100-0 and enclose a check or money order for \$50.00 (includes shipping and handling) payable to: **Procurement Publications**. Shipping delivery is not made to post office boxes; you must include your street address. If you have any questions, contact the Department of General Services directly at (916) 574-2200. ♦

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